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General Assembly

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Human Rights Council
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Agenda item 3

Resolution adopted by the Human Rights Council on 24 March 2016

31/30. Effects of terrorism on the enjoyment of all human rights

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other relevant international human rights instruments,

Recalling all relevant resolutions of the General Assembly, the Security Council, the Commission on Human Rights and the Human Rights Council concerning terrorism, including Assembly resolutions 46/51 of 9 December 1991, 60/158 of 16 December 2005, 60/288 of 8 September 2006, 64/297 of 8 September 2010, 66/10 of 18 November 2011 on the United Nations Counter-Terrorism Centre established on the initiative of the United Nations and Saudi Arabia, 68/178 of 18 December 2013, 68/276 of 13 June 2014, 69/127 of 10 December 2014 and 70/148 of 17 December 2015, Commission resolution 2004/44 of 19 April 2004, and Human Rights Council resolutions on terrorism and human rights, including 28/17 of 26 March 2015,

Reaffirming its commitment to the United Nations Global Counter-Terrorism Strategy and its four pillars, adopted by the General Assembly in its resolution 60/288,

Reaffirming also the right of the people to live in peace, freedom and security and their right to be protected at all times from the threat of terrorism,

Reaffirming further that everyone has the right to life, liberty and security of person,

Reaffirming that civil, political, economic, social and cultural rights are universal, indivisible, interdependent and interrelated, as enshrined in the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Recognizing that the objectives of countering terrorism and of the protection and promotion of human rights are not conflicting but complementary and mutually reinforcing,

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Reaffirming the fundamental importance of respecting all human rights and fundamental freedoms and the rule of law,

Reiterating that all States have an obligation to promote and protect all human rights and fundamental freedoms and to ensure effective implementation of their obligations under international human rights law and international humanitarian law, as applicable,

Taking note of the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, submitted to the Human Rights Council at its twenty-ninth session,[1]

Welcoming the holding of a panel discussion on the effects of terrorism on the enjoyment by all persons of human rights and fundamental freedoms at the twenty-ninth session of the Human Rights Council, and taking note of the summary report of the Office of the United Nations High Commissioner for Human Rights thereon,[2]

Renewing its unwavering commitment to strengthening international cooperation to prevent and combat terrorism in all its forms and manifestations,

Recognizing that international cooperation and any measures taken by Member States to prevent and combat terrorism must fully comply with their obligations under international law, including the Charter, in particular the purposes and principles thereof, and other relevant international conventions and protocols, in particular human rights law and international humanitarian law, as applicable,

Emphasizing that mutual respect, tolerance and dialogue among civilizations and the enhancement of interfaith and intercultural understanding are among the most important elements in promoting cooperation and success in preventing and combating terrorism, and welcoming the various initiatives to this end,

Reaffirming its strongest condemnation of the heinous acts of terrorism in all its forms and manifestations, wherever and by whomsoever committed, regardless of motivation, as criminal and unjustifiable acts that have detrimentally affected the enjoyment of human rights and fundamental freedoms, such as the right to life, liberty and security of person, thus impeding the full realization of economic, social and cultural rights, threatening the territorial integrity and security of States, rule of law and democracy, and destabilizing Governments, and ultimately representing a grave threat to the functioning of societies and to international peace and security,

Acknowledging the important contribution of measures taken at all levels against terrorism, consistent with international law, to the functioning of democratic institutions and the maintenance of peace and security and thereby to the full enjoyment of human rights, and the need to continue the fight against terrorism, including through international cooperation and by strengthening the role of the United Nations in this respect,

Expressing its continuing concern at the increasing flow of foreign terrorist fighters and at the threat it poses to all States, including countries of origin, transit and destination, encouraging all States to address this threat by enhancing their cooperation and developing relevant measures to prevent and tackle this phenomenon, including information-sharing, border management to detect travel, and appropriate criminal justice response, and to consider the use of United Nations instruments and mechanisms, and sanctions regimes,

Reiterating that all States should fulfil their responsibilities in denying all forms of support, for terrorists and terrorist groups, particularly political, military logistical and

[1] A/HRC/29/51.
[2] A/HRC/30/64.

financial support, including through collecting funds by their nationals or persons in their territories, or availing financial assets, directly or indirectly, for the benefit of, or with the intention that the funds be used by, or with the knowledge that they are to be used by, terrorist groups or individual terrorists for any purpose, and deny providing safe haven and to prevent terrorists from benefiting directly or indirectly from ransom payments to terrorist groups, and to bring to justice or, where appropriate, extradite, on the basis of the principle of extradite or prosecute, the perpetrators of terrorist acts or any person who supports, facilitates or participates, or attempts to participate, in the financing, planning, preparation or perpetration of terrorist acts or in providing safe havens,

Welcoming political commitments, actions and initiatives taken and adopted against kidnapping for ransom in different forums, such as the Algiers Memorandum on Good Practices on Preventing and Denying the Benefits of Kidnapping for Ransom by Terrorists,

Deeply concerned at the serious crimes committed by terrorist groups and individuals, including foreign terrorist fighters, that have targeted persons and groups on the basis of their ethnic and religious background and involved gross human rights abuses,

Deploring attacks on religious places and shrines and cultural sites, which may violate international law, in particular human rights and international humanitarian law, including any deliberate destruction of relics, monuments and religious sites,

Recalling its resolution 16/18 of 24 March 2011 and its follow-up resolutions, the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and the Istanbul Process for Combating Intolerance, Discrimination and Incitement to Hatred and/or Violence on the Basis of Religion or Belief, and calling for their effective implementation by the international community in order to contribute to a more conducive environment to countering the messages of extremist groups attempting to justify violence, including through ethnic or religious stigmatization and discrimination,

Affirming States' determination to work towards conflict resolution, to confront oppression, to eradicate poverty, to promote sustained economic growth, sustainable development, global prosperity, good governance, human rights for all and the rule of law, to improve intercultural understanding and to ensure respect for all,

1. *Strongly condemns* all terrorist acts as criminal and unjustifiable, and expresses grave concern at their detrimental effects on the enjoyment of human rights, including the right to life, liberty and security of person, as stipulated in article 3 of the Universal Declaration of Human Rights;

2. *Expresses its concern* that terrorists and terrorist groups have targeted population segments and regions, and in some cases on the basis of religion and/or ethnicity of specific individuals and communities;

3. *Reaffirms* the primary responsibility of States in preventing and countering terrorism in all its forms and manifestations in the territory under their jurisdiction, in full compliance with their international law obligations;

4. *Urges* States, while countering terrorism, to respect and protect all human rights, bearing in mind that certain counter-terrorism measures may have an impact on the enjoyment of those rights;

5. *Expresses concern* at the increase in kidnapping and hostage-taking with demands for ransom and/or political concessions being made by terrorist groups, and expresses the need to address this issue;

6. *Reiterates* the obligation of States to prevent and suppress the financing of terrorist acts, including ransom payment, and to criminalize the wilful provision or

collection by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds be used, or with the knowledge that they are to be used, to carry out terrorist acts;

7. *Encourages* States to refrain from supporting terrorist groups in establishing propaganda platforms, such as electronic or satellite platforms or any other media, on their territory for disseminating hatred or instigation;

8. *Urges* States to take appropriate measures to duly investigate the incitement, preparation or commission of acts of terrorism, and to bring to justice those engaged in such acts in accordance with national criminal laws and procedures and international human rights law, as applicable;

9. *Also urges* States to adopt rehabilitation and reintegration strategies for returning foreign terrorist fighters, in line with the good practices set out in the Hague – Marrakech Memorandum of the Global Counterterrorism Forum, and to adopt a comprehensive approach that includes the development of national centres for counsel and de-radicalization that can play an important role along with criminal justice responses, and in this regard welcomes the role of the Mohamed bin Naif Counselling and Care Centre in countering terrorist ideologies and activities;

10. *Expresses its concern* at the increasing use, in a globalized society, by terrorists and their supporters of information and communications technology, in particular the Internet and other media, to advocate, commit, incite, recruit for, fund or plan terrorist acts, urges States to take appropriate preventive measures in this regard while acting in full compliance with their international law obligations, and emphasizes the importance of cooperation among stakeholders in the implementation of the United Nations Global Counter-Terrorism Strategy, including among States, international, regional and subregional organizations, the private sector and civil society, to address this issue, while respecting human rights and fundamental freedoms and complying with international law and the purposes and principles of the Charter of the United Nations, and reiterates that such technologies can be powerful tools in countering the spread of terrorism, including by promoting tolerance, mutual respect and dialogue and understanding among peoples and peace, and in this regard notes with appreciation the constructive role played by the Cyber Observatory of Takfiri Fatwas in Egypt;

11. *Renews* its commitment to strengthening international cooperation to prevent and counter terrorism in accordance with the principles of international law, including the Charter, international human rights law and international humanitarian law, including through technical cooperation and capacity-building, and in that regard calls upon States and relevant regional and subregional organizations, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy and its four pillars;

12. *Calls upon* all States to promote a culture of peace, justice and human development, ethnic, national and religious tolerance, and respect for all religions, religious values, beliefs and cultures by establishing and encouraging, as appropriate, education and public awareness programmes involving all sectors of society;

13. *Expresses its solidarity* with the victims of terrorism and their families, and acknowledges the importance of protecting their rights and of providing them with proper support and assistance, while taking into account, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth in such a way that promotes accountability and ends impunity, in accordance with international law, and encourages the enhancement of international cooperation and the exchange of expertise in that respect, in accordance with international law;

14. *Encourages* States to provide appropriate assistance and rehabilitation for victims of terrorism in accordance with relevant national laws from within available resources;

15. *Urges* States and the international community to take measures, including through education, awareness-raising, the media and human rights education and training, to effectively address the conditions conducive to the spread of terrorism and that make individuals and groups more vulnerable to the effects of terrorism and to recruitment by terrorists;

16. *Invites* all treaty bodies, special procedure mandate holders, international and regional human rights mechanisms and the United Nations High Commissioner for Human Rights, within their respective mandates, to pay due attention to the negative impact of terrorism on the enjoyment of all human rights and fundamental freedoms;

17. *Requests* the High Commissioner to prepare a report on the negative effects of terrorism on the enjoyment of all human rights and fundamental freedoms, particularly the right to life, liberty and security of person, while paying particular attention to best practices and major challenges in this regard, and to present the report to the Human Rights Council at its thirty-fourth session.

64th meeting
24 March 2016

[Adopted by a recorded vote of 28 to 14, with 5 abstentions. The voting was as follows:

In favour:

Algeria, Bangladesh, Bolivia (Plurinational State of), Botswana, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, El Salvador, Ethiopia, Ghana, India, Indonesia, Kenya, Maldives, Morocco, Nigeria, Paraguay, Philippines, Qatar, Russian Federation, Saudi Arabia, Togo, United Arab Emirates, Venezuela (Bolivarian Republic of), Viet Nam

Against:

Albania, Belgium, France, Germany, Latvia, Mexico, Netherlands, Portugal, Republic of Korea, Slovenia, South Africa, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland

Abstaining:

Georgia, Kyrgyzstan, Mongolia, Namibia, Panama]

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General Assembly

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Human Rights Council
Thirty-first session
Agenda item 3

Resolution adopted by the Human Rights Council on 24 March 2016

31/31. Torture and other cruel, inhuman or degrading treatment or punishment: safeguards to prevent torture during police custody and pretrial detention

The Human Rights Council,

Recalling all resolutions on torture and other cruel, inhuman or degrading treatment or punishment adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council,

Recognizing that law enforcement officials play a vital role in the protection of the right to life, liberty and security, as enshrined in the Universal Declaration of Human Rights and reaffirmed in the International Covenant on Civil and Political Rights,

Recognizing also the role of law enforcement officials in serving the community and protecting all persons against acts of torture and other cruel, inhuman or degrading treatment or punishment, consistent with the important role of their profession, and that, in the performance of their duty, law enforcement officials are obligated to respect and protect the human rights of all persons,

Recalling the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)[1] and the adoption of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules),[2]

Recalling also that accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication,

Recalling further article 11 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, according to which each State party shall keep under systematic review interrogation rules, instructions, methods and practices, as well as arrangements for the custody and treatment of persons subjected to any form of

[1] General Assembly resolution 65/229, annex.
[2] General Assembly resolution 70/175, annex.

arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture,

Mindful of existing principles, guidelines and standards relevant to interrogation, including the United Nations Code of Conduct for Law Enforcement Officials and the United Nations Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, and also mindful of the Luanda Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, adopted by the African Commission on Human and Peoples' Rights, the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, adopted by the Inter-American Commission on Human Rights, and the revised standards for law enforcement agencies, issued by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,

1. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat all acts of torture and other cruel, inhuman or degrading treatment or punishment, stresses that all acts of torture must be made offences under domestic criminal law punishable by appropriate penalties that take into account their grave nature, and calls upon States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;

2. *Urges* all States that have not yet become a party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to do so, and to give early consideration to signing and ratifying the Optional Protocol thereto as a matter of priority;

3. *Welcomes* the Convention against Torture Initiative, launched in March 2014 on the thirtieth anniversary of the adoption of the Convention, to achieve the universal ratification and improved implementation of the Convention by 2024, and related regional initiatives on the prevention and eradication of torture;

4. *Urges* States to adopt, implement and comply fully with legal and procedural safeguards against torture and other cruel, inhuman or degrading treatment or punishment, and to ensure that the judiciary, and where relevant the prosecution, can effectively ensure compliance with such safeguards;

5. *Stresses* that effective legal and procedural safeguards for the prevention of torture and other cruel, inhuman or degrading treatment or punishment include ensuring that any individual arrested or detained on a criminal charge is brought promptly before a judge or other independent judicial officer, and permitting prompt and regular medical care and legal counsel at any stage of detention and visits by family members;

6. *Also stresses* the obligation of States to ensure that anyone who is arrested is informed at the time of arrest of the reasons for the arrest, and is promptly informed of any charges against him or her in accessible forms of communication, including in a language that he or she understands, and be provided with information about and an explanation of his or her rights;

7. *Calls upon* States in the context of criminal proceedings to ensure access to lawyers from the outset of custody and during all interrogations and judicial proceedings, and timely access of lawyers to appropriate information to enable them to provide effective legal assistance to their clients;

8. *Encourages* States to ensure that a proper and consented medical examination by a medical practitioner is available to persons in police custody and pretrial detention as promptly as possible after their admission to the place of detention, and to ensure that the results of every examination and relevant statements by the detainee and the medical

practitioner's conclusions are duly recorded and made available to the detainee in accordance with relevant rules of domestic law;

9. *Also encourages* States to ensure the compilation and maintenance of up-to-date official registers and/or records of persons in police custody or pretrial detention, which, as a minimum, contain information about (a) the reasons for the arrest; (b) the time of the arrest and the taking of the arrested person to a place of custody, as well as that of his or her first appearance before a judicial or other authority; (c) the identity of the law enforcement officials concerned; (d) precise information concerning the place of custody; and to communicate such records to the detained person or his or her counsel, as prescribed by law;

10. *Stresses* the importance of developing corroborating methods of crime investigation to eliminate or reduce sole reliance on confessions for the purpose of securing convictions, and the importance of seeking corroborative evidence through all available modern, scientific methods of crime investigation, including through appropriate investment in equipment, skilled human resources and international cooperation on capacity-building;

11. *Also stresses* the importance of keeping under systematic review interrogation rules, instructions, methods and practices, and of developing domestic guidelines on how to conduct interrogations with a view to preventing any cases of torture and other cruel, inhuman or degrading treatment or punishment;

12. *Urges* States, during reviews of domestic interrogation rules, instructions, methods and practices to ensure that they observe their international obligations, that safeguards against torture and other cruel, inhuman or degrading treatment or punishment are in place, and that during such reviews they are mindful of the particular importance of safeguards, to ensure that:

(*a*) The physical environment and conditions during interrogation are humane;

(*b*) The length of interrogation sessions are in accordance with obligations under international human rights law, including the prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

(*c*) Interrogated persons are not subjected to coercive methods of interrogation that impair their capacity of decision or their judgement, or forces them to confess, incriminate themselves or testify against any other person;

(*d*) All persons during police custody and pretrial detention subjected to interrogation are afforded the right to the presence and assistance of a lawyer and, if necessary, the presence and services of a properly qualified interpreter during interrogation sessions;

(*e*) Records of interrogation sessions during police custody and pretrial detention, including their duration and the intervals between sessions, and the identity of the law enforcement official who conduct the interrogations and other persons present are kept accurately, and that such records are stored safely;

(*f*) Rules are in place to obligate law enforcement officials to report instances of torture or other cruel, inhuman or degrading treatment or punishment to their superior authorities, with appropriate sanctions for non-reporting, and, where necessary, that independent organs are vested with reviewing or remedial power;

(*g*) Consideration is given at all times to the personal circumstances of the interrogated person;

13. *Stresses* that States must ensure that no statement that is established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, urges States to extend that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, and recognizes that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

14. *Calls upon* States to include education and information regarding the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment in the training of law enforcement personnel, which may include training on, inter alia, the use of force and all available modern scientific methods for crime investigation and the critical importance of reporting instances of torture or other cruel, inhuman or degrading treatment or punishment to superior authorities;

15. *Emphasizes* that it is important, for the ability of law enforcement officials to play their role in safeguarding the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, that States ensure the proper functioning of the criminal justice system, particularly by taking effective measures for combating corruption, establishing proper legal aid programmes and providing adequate selection, training and remuneration of law enforcement officials;

16. *Stresses* that inspections of places of police custody and pretrial detention by an independent authority contribute to the prevention of torture and other cruel, inhuman or degrading treatment or punishment, and that, to be fully effective, such visits should be regular and able to be made unannounced, and the authority should be empowered to examine all issues related to the treatment of persons in police custody and pretrial detention and to interview detained persons in full confidentiality, subject to reasonable conditions to ensure security and good order in such places;

17. *Emphasizes* that States are obligated to ensure that any person who alleges to have been subjected to torture or other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction has the right to complain to the competent authorities, and that steps are taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his or her complaint or any evidence given;

18. *Stresses* that an independent, competent domestic authority must promptly, effectively and impartially investigate all allegations of torture or other cruel, inhuman or degrading treatment or punishment, and wherever there is reasonable ground to believe that such an act has been committed, and that those who encourage, instigate, order, tolerate, acquiesce in, consent to or perpetrate such acts must be held responsible, brought to justice and punished in a manner commensurate with the severity of the offence, including officials in charge of any place of detention or other place where persons are deprived of their liberty where the prohibited act is found to have been committed;

19. *Invites* the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and other relevant special procedures, within their respective mandates, to take the present resolution into account in their future work;

20. *Takes note* of the latest report[3] of the Special Rapporteur;

21. *Requests* the Office of the United Nations High Commissioner of Human Rights to convene, in 2017, an intersessional, full-day open-ended seminar, with

[3] A/HRC/31/57.

interpretation in the six official languages of the United Nations, with the objective of exchanging national experiences and practices on the implementation of effective safeguards to prevent torture and other cruel, inhuman or degrading treatment or punishment during police custody and pretrial detention;

22. *Also requests* the Office of the High Commissioner to prepare a summary report of the above-mentioned seminar, and to submit the report to the Human Rights Council at its thirty-seventh session.

64th meeting
24 March 2016

[Adopted without a vote.]